IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICITON

WRIT PETITION (L) NO.1698 OF 2007

Rakesh N. Dutt .. Petitioner.

Versus

Deputy Commissioner of Income-tax-10(1) and others, .. Respondents.

Mr.S.N. Inamdarwith Mr.A.K. Jasani for the petitioner.

Mr.Vimal Gupta for the respondents.

CORAM : F.I. REBELLO &
J.P. DEVADHAR, JJ.

DATED : 13TH AUGUST, 2007.

P.C. :

1. In respect of notice issued under Section 148 of the Income Tax Act, 1961, the petitioners had filed various objections. The Assessing Officer by communication dated 26th July, 2007 observed that the objections raised have no merit and rejected the same. That is the subject matter of the present petition.

2. Once objections were raised, the Assessing Officer was bound to give some reasons, may be not elaborate for rejecting the said objections. In the instant case, we find no reasons given at all except reiterating the earlier reasons recorded. In other words, as if the reasons recorded are final and the

objections were not worthy of any credit. In our opinion, this was not a proper approach. The Assessing Officer ought to have considered the objections and rejected them by giving reasons.

3. It is the contention of the learned counsel for the petitioner that the issue is squarely covered by the Judgment of this court in the case of Lotus Investments Ltd. V/s. G.Y. Wagh, Assistant Commissioner of Income-tax & Others reported in [1007] 288 ITR 459 (Bom). It will be open to the Assessing Officer to consider the ratio of the said judgment.

4. Considering the above, impugned communication dated 26th July, 2007 is set aside and the matter is remanded back to the Respondent No.1 for passing fresh order according to law.

5. If the order is adverse to the petitioner, the same may not be acted upon for a period of four weeks from the date of such order.

6. With these observations, the writ petition stands disposed of with no order as to costs.

(F.I. REBELLO, J.)

(J.P. DEVADHAR, J.)